



BILLING CODE 754501

NATIONAL LABOR RELATIONS BOARD

Privacy Act System of Records, Amended System of Records

AGENCY: National Labor Relations Board.

ACTION: Notice of an Amended Privacy Act System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, the Agency publishes this notice of its intention to amend a system of records, NLRB-17, Personnel Security Records.

All persons are advised that, in the absence of submitted comments considered by the Agency as warranting modification of the notice as here proposed, it is the intention of the Agency that the notice shall be effective upon expiration of the comment period without further action.

DATES: Written comments must be submitted no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: All persons who desire to submit written comments for consideration by the Agency in connection with this proposed notice of the amended system of records shall mail them to the Agency's Senior Agency Official for Privacy, National Labor Relations Board, 1015 Half Street, S.E., Third Floor, Washington, DC 20570-0001, or submit them electronically to pac@nlrb.gov. Comments may also be submitted electronically through <http://www.regulations.gov>, which contains a copy of this proposed notice and any submitted comments.

FOR FURTHER INFORMATION CONTACT: Virginia Ephraim, IT Security and Privacy Compliance Specialist, National Labor Relations Board, 1015 Half Street, S.E., Third Floor, Washington, DC 20570-0001, (855)-209-9394, pac@nlrb.gov.

SUPPLEMENTARY INFORMATION: The Agency exempts an amended system of records, NLRB-17, Personnel Security Records, from the following provisions of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). The Agency is claiming exemptions pursuant to Sections 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of that Act. The Agency's direct final rule setting forth these exemptions appears elsewhere in today's issue of the Federal Register.

A report of the proposal to establish these systems of records was filed pursuant to 5 U.S.C. 552a(r) with Congress and the Office of Management and Budget.

Dated: Washington, DC November 9, 2016.

By direction of the Board.

William B. Cowen,

Federal Register Liaison, National Labor Relations Board

NLRB-17

SYSTEM NAME:

Personnel Security Records

SECURITY CLASSIFICATION:

Most personnel security records are not classified. However, in some cases, records of certain individuals, or portions of some records, may be classified in the interest of national security.

SYSTEM LOCATION:

National Labor Relations Board, Division of Administration, Security Branch; the current street address of the NLRB can be found at www.nlr.gov.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who may require regular, ongoing access to National Labor Relations Board facilities and its information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, federal employees, contractors, students, interns, volunteers, affiliates, and individuals authorized to perform or use services provided at National Labor Relations Board facilities. Individuals formerly in any of these positions may also have records in this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include the following:

A. Copies of investigative information (i.e., SF-85/85P/86/87) regarding an individual that were created by the Office of Personnel Management, the FBI, the Department of Defense, the Department of Homeland Security, or other agencies that provide the NLRB with information.

B. Correspondence relating to adjudication matters and results of suitability decisions in cases adjudicated by the Office of Personnel Management, Federal Investigative Services in accordance with 5 C.F.R. 731.

C. Records of personnel background investigations regarding suitability that have been provided by other Federal agencies.

D. Records of adjudicative and HSPD-12 decisions by other Federal agencies, including clearance determinations and/or polygraph results.

E. Assorted government-wide forms that are routinely used by the Agency in making suitability determinations and granting clearances.

Categories A-E above may include the following types of information about individuals: name, former names, birth date, birth place, Social Security number, home address, phone numbers, employment history, residential history, education and degrees earned, names of associates and references and their contact information, citizenship, names of relatives, birthdates and places of relatives, citizenship of relatives, names of relatives who work for the federal government, criminal history, mental health history, drug use, financial information, fingerprints, summary report of investigation, results of suitability decisions, level of security clearance, date of issuance of security clearance, requests for appeal, witness statements, investigator's notes, tax return information, credit reports, NLRB identification cards, and employee photographs, security violations, circumstances of violation, and agency action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Exec. Order 10450 Security requirement for Government Employment; Exec. Order 10865 Safeguarding classified information within industry; Exec. Order 12333 (amended) US Intelligence Activities; Exec. Order 12356 National Security Information; Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors; OMB Memo M-05-24, August 2005 Implementation of HSPD-12-policy for a Common Identification Standard for Federal Employees and Contractors; OPM

Memo, July 2008, Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12; FIPS PUB 201-2, August 2013, Federal Information Processing Standards Publication, Personal Identity Verification (PIV) of Federal Employees and Contractors; Title 5 U.S.C. Sec 3301 Civil Service - Generally; Title 5 U.S.C. Sec 9101 Access to Criminal History Records for National Security and Other Purposes; Title 5 U.S.C. Parts 1400 National Security Positions ; Title 5 U.S.C. Parts 736 Personnel Investigations; Title 42 U.S.C. Sec 2165 Security Restrictions; Title 42 U.S.C. Sec 2201 General Duties of Commission; Title 50 U.S.C. Sec 781-858 Internal Security; Title 50 U.S.C. Sec 881 – 887 National Defense Facilities ; NLRB Administrative Policies and Procedures Manual, Sec-1(B) Suitability and Security Regulations.

PURPOSE(S):

Records in this system are used by the NLRB Security Branch staff for documentation and support of decisions regarding clearance for access to classified information, and determining suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, as well as current employees undergoing reinvestigation at the National Labor Relations Board. The records in this system may be used to document security violations and supervisory actions in response to such violations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and/or information are disclosed to:

1. Designated officers and employees of agencies (excluding the National Labor Relations Board) and offices in the executive, legislative, or judicial branches of the Federal government, with a need to evaluate qualifications, suitability, or loyalty to the United States Government, as well as the granting of a security clearance or access to classified information or restricted areas.

2. A Federal, state, local, tribal, or other charged agency maintaining civil, criminal, or other relevant enforcement information, if necessary to obtain information relevant to an NLRB decision concerning the hiring or retention of an employee, or the issuance of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

3. A Federal, state, local, tribal, or other charged agency in response to its request in connection with the hiring or retention of an employee or the issuance of a security clearance, to the extent that the information is relevant and necessary to the requesting agency's decisions on that matter.

4. Except as noted on Forms SF 85, 85-P, 86, and 87, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued, disclosure may be made to the appropriate public authority, whether Federal, state, local, tribal, or other authority charged with the

responsibility of investigating or prosecuting such violation, or to any agency in connection with its oversight review responsibility.

5. A Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained. However, the investigative file, or parts thereof, will only be released to a Congressional office if the Agency receives a signed statement under 28 U.S.C. 1746 from the subject of the investigation.

6. The Department of Justice for use in litigation when either (a) the Agency or any component thereof, (b) any employee of the Agency in his or her official capacity, (c) any employee of the Agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (d) the United States Government is a party to litigation or has an interest in such litigation, and the Agency determines that the records are both relevant and necessary to the litigation.

7. A court or other adjudicative body before which the Agency is authorized to appear, when either (a) the Agency or any component thereof, (b) any employee of the Agency in his or her official capacity, (c) any employee of the Agency in his or her individual capacity, where the Agency has agreed to represent the employee, or (d) the United States Government is a party to litigation or has an interest in such litigation, and the Agency determines that the records are both relevant and necessary to the litigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

STORAGE:

Records are maintained in paper format in file folders, on digital images, and in electronic databases.

RETRIEVABILITY:

Data may be retrieved by name, Social Security number, or date of birth.

SAFEGUARDS:

Paper – Paper files are stored in a locked file cabinet or a secure facility with an intrusion alarm system at NLRB Headquarters in the Security branch. Access is limited to personnel security officers and their duly authorized representatives who have a need to know the information for the performance of their official duties. The U.S. Postal Service and other postal providers are used to transmit hard copy records sent to and from field offices, other agencies, and designated individuals.

Electronic – Comprehensive electronic records are maintained in the Security Branch and on the NLRB network. Electronic records are maintained in computer databases in a secure room accessible only by a personal identity verification card reader which is limited to Office of Chief Information Officer designated employees. Information that is transmitted electronically from field offices is encrypted. Access to the records is restricted to security staff with a specific role in the Personal Identity Verification (PIV) program and Personnel

Security process requiring access to background investigation information to perform their duties, and who have been given access rights to that part of the system, including background investigation records. An audit trail is maintained and reviewed periodically to identify unauthorized access for both programs. Persons given roles in the PIV program must complete training specific to their roles to ensure they are knowledgeable about how to protect personally identifiable information.

RETENTION AND DISPOSAL:

Personnel Security Clearance Files, Case Files are disposed in accordance with General Records Schedule 18, Item 22a. Files are destroyed upon notification of death, or no later than 5 years after separation or transfer of employee or no later than 5 years after the applicable contractual relationship with the Agency expires, whichever is applicable.

Investigative Documents Furnished to the Agency are disposed in accordance with General Records Schedule 18, Item 22b. Files are destroyed in accordance with the investigating agency instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Security Officer, National Labor Relations Board; the current street address of the NLRB can be found at www.nlrb.gov.

NOTIFICATION PROCEDURE:

For records not exempted under 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of the Privacy Act, an individual may inquire as to whether this system contains a record pertaining to such individual by sending a request in writing,

signed, to the System Manager at the address above, in accordance with the procedures set forth in 29 C.F.R. 102.119(a).

When an individual requests notification whether the system of records covered by this Notice contains records pertaining to that individual, the request should provide the individual's full name, date of birth, agency name, and work location. An individual requesting notification of records in person must provide identity documents sufficient to satisfy the custodian of the records that the requester is entitled to such notification, such as a government-issued photo ID. Individuals requesting notification via mail must furnish, at minimum, name, date of birth, Social Security number, and home address in order to establish identity.

RECORD ACCESS PROCEDURES:

For records not exempted under 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of the Privacy Act, an individual seeking to gain access to records in this system pertaining to him or her should contact the System Manager at the address above, in accordance with the procedures set forth in 29 C.F.R. 102.119(b) and (c).

When an individual requests access to records contained within the system of records covered by this Notice pertaining to that individual, the request should provide the individual's full name, date of birth, agency name, and work location. An individual requesting access in person must provide identity documents sufficient to satisfy the custodian of the records that the requester is entitled to such access, such as a government-issued photo ID. Individuals requesting access via mail must furnish, at minimum, name, date of birth, Social

Security number, and home address in order to establish identity. Requesters should also reasonably specify the record contents being sought. Investigative information created by other agencies (Record Category A, above) remain the property of those agencies and requests regarding such material must be directed to them.

Current NLRB employees employed in bargaining units covered by a collective-bargaining agreement should refer to the applicable provisions of that agreement.

CONTESTING RECORD PROCEDURES:

For records not exempted under 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of the Privacy Act, an individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the System Manager at the address above, in accordance with the procedures set forth in 29 C.F.R. 102.119(d).

When an individual seeks to contest records contained within the system of records covered by this Notice pertaining to that individual, the request should provide the individual's full name, date of birth, agency name, and work location. An individual seeking to contest records in person must provide identity documents sufficient to satisfy the custodian of the records that the requester is entitled to contest such records, such as a government-issued photo ID. Individuals seeking to contest records via mail must furnish, at minimum, name, date of birth, social security number, and home address in order to establish identity. Requesters should also reasonably identify the record, specify the

information they are contesting, state the corrective action sought and the reasons for the correction along with supporting justification showing why the record is not accurate, timely, relevant, or complete. Investigative information created by other agencies (Record Category A, above) remain the property of those agencies and requests regarding such material must be directed to them.

RECORD SOURCE CATEGORIES:

For records not exempted under 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of the Privacy Act, record source categories include the following: the employee, contractor, or applicant via use of the SF-85, SF-85P, SF-86, or SF-87 and personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, co-workers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is obtained from a variety of sources, including security inspections, witnesses, supervisors' reports, audit reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7) of the Privacy Act, the Agency has exempted portions of this system that relate to providing an accounting of disclosures to the data subject, and access to and amendment of records (5 U.S.C. 552a(c)(3),(d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f)).

This system may contain the following types of information:

1. Properly classified information subject to the provisions of section 552(b)(1), which states as follows: (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order.

2. Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

3. Information maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the U.S. Code.

4. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment and Federal contact or access to classified information. Materials may be exempted to the extent that release of the material to the individual whom the information is about would reveal the identity of a source who furnished information to the

Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

5. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

6. Evaluation materials, compiled during the course of a personnel investigation, that are used solely to determine potential for promotion in the armed services may be exempted to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

[FR Doc. 2016-27488 Filed: 11/18/2016 8:45 am; Publication Date: 11/21/2016]